

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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No: 22-3168

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United States of America

Plaintiff - Appellant

v.

Mujera Benjamin Lung'aho

Defendant - Appellee

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Appeal from U.S. District Court for the Eastern District of Arkansas - Central  
(4:20-cr-00288-DPM-1)

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**JUDGMENT**

Before SHEPHERD, ERICKSON and STRAS, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

July 06, 2023

Order Entered in Accordance with Opinion:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

Adopted April 15, 2015  
Effective August 1, 2015

**Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.**

**V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari**

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States*, 513 U.S. 5 (1994) (*per curiam*); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file *pro se* a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California*, 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing *pro se* a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petition for writ of certiorari.

## Forrest Dunn

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**From:** ca08ml\_cmecf\_Notify@ca8.uscourts.gov  
**Sent:** Thursday, July 6, 2023 10:00 AM  
**Subject:** 22-3168 United States v. Mujera Lung'aho "judgment filed sua sponte affirmed" (4:20-cr-00288-DPM-1)

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### Eighth Circuit Court of Appeals

#### Notice of Docket Activity

The following transaction was filed on 07/06/2023

**Case Name:** United States v. Mujera Lung'aho  
**Case Number:** [22-3168](#)  
**Document(s):** [Document\(s\)](#)

#### Docket Text:

**JUDGMENT FILED** - The judgment of the Originating Court is AFFIRMED in accordance with the opinion BOBBY E. SHEPHERD, RALPH R. ERICKSON and DAVID R. STRAS Hrg Mar 2023 [5292814] [22-3168]--[Edited 07/06/2023 by JJB]  
Adding CJA letter. (Jenn Baker)

#### Notice will be electronically mailed to:

Mr. John Ray White, Assistant U.S. Attorney: John.White2@usdoj.gov, tavia.douthard@usdoj.gov, caseview.ecf@usdoj.gov, stephanie.mazzanti@usdoj.gov, john.webster@usdoj.gov, leslie.bright@usdoj.gov  
Ms. Stacy Rachelle Williams, Assistant U.S. Attorney: Stacy.Williams@usdoj.gov, corey.taylor@usdoj.gov  
Mr. Michael Kiel Kaiser: michael@lcarklaw.com, andrea@lcarklaw.com, teresa@lcarklaw.com  
Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court: ared\_appeals@ared.uscourts.gov

#### Notice will be mailed to:

Mujera Benjamin Lung'aho  
GREENE COUNTY DETENTION CENTER  
1809 N. Rocking Chair Road  
Paragould, AR 72450

The following document(s) are associated with this transaction:

**Document Description:** Judgment With Opinions

**Original Filename:** /opt/ACECF/live/forms/JennBaker\_223168\_5292814\_JudgmentsWithOpinions\_258.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1105112566 [Date=07/06/2023] [FileNumber=5292814-0]

[ab00d47dedf72cd414d05d7cebb262f1359a6b4c5a44a42bf10a8ccbd7b5f8106fc3803cc2e8296f0db6d87eb67fc32d48f0e22c44dfeafab7ca7d4f26e2bbb]]

**Recipients:**

- [Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court](#)
- [Mr. Michael Kiel Kaiser](#)
- [Mujera Benjamin Lung'aho](#)
- [Mr. John Ray White, Assistant U.S. Attorney](#)
- [Ms. Stacy Rachelle Williams, Assistant U.S. Attorney](#)

**Document Description:** Revision Part V of Plan to Implement CJA

**Original Filename:** /opt/ACECF/live/forms/JennBaker\_223168\_5292814\_RevisionPartVofPlantolmpCJA\_539.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1105112566 [Date=07/06/2023] [FileNumber=5292814-1]

[540d6689f7fe19c494c9a16891050073ed8f63d41a8db0847c1a4b66243039b9c2d9a933c29e761871b9df553709ccd75f2110510d0127619ac53775e7eb4539]]

**Recipients:**

- [Mr. Michael Kiel Kaiser](#)

The following information is for the use of court personnel:

**DOCKET ENTRY ID:** 5292814

**RELIEF(S) DOCKETED:**

affirmed

**DOCKET PART(S) ADDED:** 7309708, 7309709, 7309710